

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSHUA SHUMAN, a minor by and
through his mother and natural guardian
TERESA SHERTZER, and **TERESA**
SHERTZER, individually

Plaintiffs

v.

PENN MANOR SCHOOL DISTRICT,
PENN MANOR SCHOOL BOARD,
C. WILLIS HERR,
RICHARD L. FRERICHS,
JEFFERY E. LYON,
PATRICK T. KLINE,
DONALD H. ANDERSON,
H. THOMAS HERR,
KELLY K. WITHUM,
DONNA WERT,
JEFFREY G. KREIDER,
DOLORES WARFEL, and
STEVE SKROCKI, each individually and
as members/officers of the Penn Manor
School Board,
AND
GARY B. CAMPBELL, individually and as
Superintendent of the Penn Manor
School District,
AND
DONALD STEWART, individually and as
Acting Superintendent of the Penn Manor
School District
AND
JANICE M. MINDISH, individually and as
Principal of Penn Manor High School,
AND
BRIAN D. BADDICK, individually and as
Assistant Principal of Penn Manor High
School,
AND
PHILIP B. GALE, individually and as Dean
of Students of Penn Manor High School,
AND
CAROLE FAY, individually and as a teacher
and Agriculture Coordinator at Penn Manor
High School

Defendants

CIVIL ACTION NO. 02-CV-3594

MOTION OF DEFENDANTS, PENN MANOR SCHOOL DISTRICT, PENN MANOR SCHOOL BOARD, C. WILLIS HERR, RICHARD L. FRERICHS, JEFFREY E. LYON, PATRICK T. KLINE, DONALD H. ANDERSON, H. THOMAS HERR, KELLY K. WITHUM, DONNA WERT, JEFFREY G. KREIDER, DOLORES WARFEL, STEVE SKROCKI, GARY B. CAMPBELL, DONALD STEWART, JANICE M. MINDISH, BRIAN D. BADDICK, PHILIP GALE, AND CAROLE FAY, TO DISMISS PORTIONS OF THE PLAINTIFFS' COMPLAINT

The Defendants, Penn Manor School District (hereinafter referred to as the "District"), Penn Manor School Board (hereinafter referred to as the "Board"), C. Willis Herr, Richard L. Frerichs, Jeffrey E. Lyon, Patrick T. Kline, Donald H. Anderson, H. Thomas Herr, Kelly K. Withum, Donna Wert, Jeffrey G. Kreider, Dolores Warfel, and Steve Skrocki, each individually and as members/officers of the Penn Manor School Board (hereinafter collectively referred to as "School Board Member Defendants"), Gary B. Campbell, individually, and as Superintendent of the Penn Manor School District, Donald Stewart, individually and as Acting Superintendent of the Penn Manor School District, Janice M. Mindish, individually and as Principal of Penn Manor High School, Brian D. Baddick, individually and as Assistant Principal of Penn Manor High School, Philip Gale, individually and as Dean of Students of Penn Manor High School, and Carole Fay, individually and as a teacher and Agriculture Coordinator at Penn Manor High School, move for dismissal of portions of Plaintiffs' Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims upon which relief can be granted. In support of this Motion, the Defendants rely upon their Brief in Support, incorporated herein.

Respectfully submitted:

SWEET, STEVENS, TUCKER & KATZ LLP

Date: August 5, 2002

By: _____

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Attorneys for Defendants

Penn Manor School District, Penn Manor School Board, C. Willis Herr, Richard L. Frerichs, Jeffrey E. Lyon, Patrick T. Kline, Donald H. Anderson, H. Thomas Herr, Kelly K. Withum, Donna Wert, Jeffrey G. Kreider, Dolores Warfel, and Steve Skrocki, individually, and as school board members, Gary B. Campbell, Donald Stewart, Janice M. Mindish, Brian D. Baddick, Philip Gale, and Carole Fay, individually, and in their official capacities.